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Gays Ordered Included In St. Patrick's Parade

Ruling by City Human Rights Commission

BY CERISSE ANDERSON

RULING THAT THE inclusion of a lesbian and gay group in the St. Patrick's Day parade would not be an unconstitutional infringement on the parade organizers' rights of free speech and association, New York City's Commission on Human Rights yesterday ordered that the group be included in next year's parade.

The Ancient Order of Hibernians' (AOH) refusal to permit the Irish Lesbian and Gay Organization (ILGO) to march has been a subject of controversy for the past two years.

In 1991 ILGO members were permitted to march as individuals with a sympathetic local group of Hibernians, and when Mayor Dinkins joined them he was booed by some in the crowd. This year about 1,000 members of the ILGO held their own march up Fifth Avenue about an hour before the main parade of some 150,000 participants stepped off.

A panel of three commissioners yesterday adopted the findings of the com-

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PHOTOGRAPH BY FAYE ELLMAN

Last year, Irish Lesbian and Gay Organization members were denied permission to march in the annual Saint Patrick's Day Parade. The group then organized a march in protest along the route one hour before the official parade began.

Survey Shows Women Earn Less In-House Than Men

BY BARBARA FRANKLIN

A SURVEY OF 500 corporate law departments around the country confirms what has been a disturbing suspicion among in-house lawyers — that on average women attorneys are paid less than men for the same work.

The results of the study, conducted by Ernst & Young for the [illegible]

'No matter how you cut the data, you have to conclude that women are paid less than men in the law departments we've sampled.'

parisons of pay levels in New York and San Francisco suggest that women in those cities fare better than the general survey population.

The pay lag appeared in each of nine job categories, from general counsel to entry-level attorney. The average salary paid to 296 male gener-

task force on minorities and women in the profession.

In the New York metropolitan area, women fared slightly better than the general survey population. For years out of law school, men outpaced women in 12 out of 20 years. When exam-

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Commission Ruling on St. Patrick's Parade

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mission's chief administrative law judge, Rosemarie Maldonado, that the parade — although sponsored by a private organization — was a place of public accommodation. But it did not adopt her conclusion that forcing the inclusion of the ILGO in the march would violate the AOH's First Amendment rights of free speech, expressive association and free exercise of religion.

"Respondents' association right is . . . the right to associate with persons who support the broad celebratory goals of the parade rather than, as respondents argue, the right to associate merely with those who adhere to any one element of Irish heritage, such as Catholicism," the commissioners wrote in their 16-page opinion.

The AOH, a fraternal Catholic organization, had argued that one criteria for admission of groups to march in the parade was that the group could not have an agenda contrary to the teachings of the Roman Catholic church and that the ILGO's advocacy of the right to pursue a homosexual lifestyle was in conflict with church doctrine.

No Hidden Agenda

But the commission panel noted that the AOH described the parade as a celebration of freedom in the United States and included Catholics, non-Catholics, Irish and non-Irish.

"ILGO's inclusion is consistent with these messages. Its members, too, wish to celebrate their Irish heritage alongside their fellow Irish-Americans and friends. . . . We find nothing in the record to support respondents' contention that ILGO has an ulterior motive and is attempting to use the parade to further a political agenda," the decision said.

Citing the U.S. Supreme Court's 1984 ruling in *Roberts v. United States Jaycees,* 468 U.S. 609, in which the High Court rejected the Jaycees' argument that the inclusion of women would violate existing male members' associational rights, the commission said that the admission of the ILGO to the parade would not compromise "the ideas which the parade is intended to express."

The decision was criticized yesterday afternoon by Norman Siegel, executive director of the New York Civil Liberties Union, for advancing "a theory that cannot be squared with the First Amendment." The commission ruling would force the Hibernians to accept views with which they disagreed, he said.

But the commission's opinion noted that there may be "instances where a parade organizer may seek to exclude persons or groups that have an agenda inconsistent with, or contrary to, those purposes for which the parade is organized or the message which it is intended to convey. Many such events are designed to convey discrete messages, and these are entitled to the protection of the First Amendment." It cited a case involving a Ku Klux Klan march as an example.

The commission said that an alternative parade was not an equivalent forum because inclusion of the ILGO in the main parade was "the only means of assuring its members full participation in the life of the community."

It directed that the ILGO be offered an opportunity to march in the next St. Patrick's Day Parade "subject to the same terms and conditions applied to all parade participants."

But whether that happens remains to be seen. Kevin P. McKernan, one of the respondents' counsel, said yesterday that the national AOH had changed its constitution at the end of July to bar any of its branches from sponsoring a parade. (The St. Patrick's Day Parade and Celebration Committee had been a subdivision of the New York County AOH.)

"No AOH organization is going to be applying for the [parade] permit next year," he said. The parades in New York and in other cities across the country "had become a lightning rod for a number of lawsuits," he explained.

The commission's decision was signed by Commissioners Edward Ma, Edward Mapp and Harilyn Rousso.

The case was prosecuted by Elizabeth Gertz and Lizabeth Schalet of the commission's Law Enforcement Bureau headed by Deputy Commissioner Rolando Acosta.

Mr. McKernan and Patrick C. Gatins of McKernan & Gatins in Staten Island represented the national and New York State AOH organizations. Ernest L. Matthews Jr. for Thomas W. Gleason appeared for the New York County AOH. Counsel for Francis P. Beirne, the former parade chairman, was Jacob D. Fuchsberg of the Jacob D. Fuchsberg Law Firm.

ADR Adoption Seen for Courts

Continued from page 1, column 5

B. Coulson, president of the American Arbitration Association; and Milton Mollen, chief judicial officer of Judicial Arbitration and Mediation Service. Chief Judge Sol Wachtler was the moderator.

For a glimpse of how the courts will operate in the future, Justice Ostrau several times enjoined the near record audience of approximately 175 lawyers to read the ADR section of a recent report submitted by a panel appointed by Judge Wachtler and Chief Administrator Matthew T. Crosson. The report stressed that "alternate dispute resolution programs "can and do perform a real and significant service as an adjunct to and in support of a court system facing large caseloads with insufficient resources and personnel."

Justice Ostrau also said that it is now "appropriate" for justices to refer cases to ADR if they "perceive circumstances that might lend themselves to ADR." In such a case, he stressed, a judge should offer the parties a list of providers, but leave the selection of a provider to the parties themselves.

Under a program currently in operation, he said, a number of ADR companies have agreed to handle from 10 to 50 referrals from the court without any charge to the parties (*NYLJ,* Aug. 20).

On the critical issue of whether referral should be voluntary or mandatory, Mr. Mollen, who was formerly the presiding justice of the Appellate Division, Second Department, said he was opposed to mandatory court referrals because if the parties "don't enter ADR in good faith it is not going to work."

NY 'Backward'

Mr. Mollen also noted that New York, in comparison to other states, has been "very backward in accepting ADR." Justice Ostrau also said that New York has lagged behind Florida, California and several other states which have adopted "aggressive" ADR programs.

Mr. Coulson said that even during the court crisis when the courts became overburdened, the American Arbitration Association's office in the New York area did not see a significant increase in business. In addition, Mr. Mollen commented, Justice Ostrau had been "frustrated" in his efforts to implement ADR in the state court system.

Any move to a mandatory ADR system would be "very troublesome," Judge Sand suggested. In many instances, the right to return to court if ADR was unsuccessful would be illusory, he noted, because the parties would have neither the time or money to do so.